

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America)	
v.)	
JORGE HUGO ORTIZ-ROJAS, a/k/a Andres Garcia Torres &)	Case No: <u>5:02CR34-04</u>
Andy Garcia)	USM No: <u>19125-058</u>
Date of Previous Judgment: <u>November 3, 2003</u>)	James S. Weidner, Jr.
(Use Date of Last Amended Judgment if Applicable))	Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>35</u>	Amended Offense Level: <u>33</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>III</u>
Previous Guideline Range: <u>210</u> to <u>262</u> months Ct. 1	Amended Guideline Range: <u>168</u> to <u>210</u> months Ct. 1

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction as Defendant was originally sentenced at the statutory minimum pursuant to USSG § 5K1.1. Thus, a reduction in his guideline range would not have resulted in a lesser sentence, as there was no waiver under 3553(e) filed at sentencing.

III. ADDITIONAL COMMENTS

****The defendant is also serving a consecutive sentence in Count Five on a conviction of 18 U.S.C. § 924(c).**

Except as provided above, all provisions of the judgment dated November 3, 2003 shall remain in effect.

IT IS SO ORDERED.

Order Date: December 18, 2009

Effective Date: _____
(if different from order date)



Richard L. Voorhees
United States District Judge

